

# EXHIBIT BB

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----x  
5 THOMAS M. MOROUGHAN,

6 Plaintiff,

7 Docket No.  
8 12-CV-0512

9 -against-

10 THE COUNTY OF SUFFOLK, SUFFOLK COUNTY POLICE  
11 DEPARTMENT, SUFFOLK DETECTIVES RONALD  
12 TAVARES, CHARLES LESER, EUGENE GEISSINGER,  
13 NICHOLAS FAVATTA, and ALFRED CICCOTTO,  
14 DETECTIVE/SGT. WILLIAM J. LAMB, SGT. JACK  
15 SMITHERS, SUFFOLK POLICE OFFICERS WILLIAM  
16 MEANEY, JESUS FAYA and SUFFOLK JOHN DOES  
17 1-10, THE COUNTY OF NASSAU, NASSAU COUNTY  
18 POLICE DEPARTMENT, SGT. TIMOTHY MARINACI,  
19 DEPUTY CHIEF OF PATROL JOHN HUNTER,  
20 INSPECTOR EDMUND HORACE, COMMANDING OFFICER  
21 DANIEL FLANAGAN, DETECTIVE/SGT. JOHN  
22 DEMARTINIS, NASSAU POLICE OFFICERS ANTHONY  
23 D. DILEONARDO, EDWARD BIENZ and JOHN DOES  
24 11-20,

25 Defendants.

-----x  
100 Veterans Highway  
Hauppauge, New York

December 15, 2016  
9:20 a.m.

(CAPTION CONTINUED ON NEXT PAGE.)

Rich Moffett Court Reporting, Inc.  
114 Old Country Road, Suite 630  
Mineola, New York 11501  
516-280-4664

familiar with him personally.

Q Do you know for whom he works within the Suffolk County Police Department?

A No.

Q Next.

A Suffolk Police Officer Meaney, I'm not familiar with. Jesus Favatta, not familiar with. Says next, Suffolk John Does 1 through 10. Want me to keep going, County of Nassau?

Q Yes.

A Sergeant Timothy Marinaci, I do not know. Deputy Chief of Patrol John Hunter, I don't know. Inspector Edmund Horace, I don't know. Commanding Officer Daniel Flanagan, do not know. Detective Sergeant John DeMartinis, do not know. Police officers Anthony DiLeonardo, Ed Bienz and John Does. Obviously, I only know DiLeonardo and Mr. Bienz from my work on this case.

Q During the course of your career with the Suffolk County District Attorney's Office, did you ever meet a Deputy Inspector

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Q We are trying to address this by category. So that may be easier. Do you have any idea of the actual date that the DA's office took over your investigation?

A No.

Q I will show you what has been previously marked as Plaintiff's Exhibit 25, page number 1. It's an IAB summary from the Nassau County Police Department. IAU number is 27-2011.

MR. SCHROEDER: What is the page number, Tony?

MR. GRANDINETTE: Page number 1.

Q Have you ever seen the Nassau County Internal Affairs Unit report in the case?

A No.

Q You are not familiar with what I'm about to show you. I will ask you if you want to take a look at what I marked with a star?

MR. MITCHELL: Just ask does that refresh his recollection about the date instead of going through the

14 different layers because it might  
or might or might not.

MR. GRANDINETTE: Off the  
record.

(Discussion off the record.)

Q Mr. Pearl, back on the record.  
Looking at what has been previously marked  
as Plaintiff's Exhibit 25, page 1, does that  
refresh your recollection as to the date  
that the DA's office assumed responsibility  
for the investigation of this shooting?

A No.

MR. MITCHELL: Objection to  
form. You can answer.

Q Okay. Although it doesn't  
refresh your recollection, you do recognize  
that according to at least the Nassau County  
IAU report it says that on March 4, 2011 the  
Suffolk County District Attorney's Office  
informed the Suffolk County Police  
Department that they were taking over the  
investigation and the Suffolk County  
Homicide Bureau was directed to stop  
investigating the incident?

MR. SCHROEDER: Objection to  
form.

MR. MITCHELL: Objection to  
form. I stipulate the document speaks  
for itself.

Q That is what was said?

A Yes.

Q Is your knowledge of the case  
consistent with that statement?

MR. MITCHELL: Objection to  
form. You can answer.

A Sure. The date?

Q It's consistent with --

A It's consistent with March 4th.  
It could be around March 4th. Not that  
whole sentence.

Q On or about March 4th your  
office took over the investigation of the  
case?

A Yes.

Q To your knowledge, was the  
Suffolk County Homicide Squad directed to  
stop investigating the case?

A I don't know that.

Q Did you ever communicate with the Nassau County Internal Affairs Unit about their case?

A No.

Q Do you know if anyone or who, if anyone, from your office did communicate with Nassau County Internal Affairs?

MR. MITCHELL: Objection to form.

A No. I don't know if anyone from the office other than -- I won't speculate, but Tony Palumbo might have spoken to the Nassau County IAB.

Q You have no personal knowledge whether any member of the Suffolk IAD's Office spoke with the Nassau County Internal Affairs Unit?

A No.

MR. SCHROEDER: That's correct?

THE WITNESS: That's correct, sorry.

Q I show you what has been marked Plaintiff's Exhibit 146. The first question

I want to ask you is do you recognize

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form.

A Yes.

Q But she didn't tell you whether or not she ever communicated with him?

A Not that I recall.

Q Or whether he interfered with her ability to communicate with him?

A I don't recall that. I don't recall her saying anyone interfered with her treating other than all the people in the hospital were making it difficult to do her work.

Q Was the other individual Ed Bienz that he was with? Was DiLeonardo with Officer Bienz?

A No, it wasn't him.

Q What else did she tell you happened?

A She spoke to Mr. DiLeonardo, spoke to Mr. Bienz. She spoke to Mr. Moroughan. She treated Mr. Moroughan. I believe she also indicated that the detectives wanted to speak to all the parties included Mr. Moroughan in the



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A No.

Q Were you present when  
Mr. Moroughan was arrested?

A No.

Q Who told you Officer DiLeonardo  
arrested Mr. Moroughan?

A Sergeant Lamb.

Q Did Officer DiLeonardo put  
handcuffs on Mr. DiLeonardo?

A I don't know.

Q Did he take him into custody in  
any way?

A No.

Q Where did Mr. DiLeonardo  
allegedly arrest Mr. Moroughan? Where did  
he do that?

A I don't know.

Q Did he do that in the hospital?

A Assume so, but I don't know.

Q Was Mr. DiLeonardo a Suffolk  
County Police Officer?

A No.

Q Was he a Town of Huntington  
Police Officer?

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A No.

Q Or Village of Huntington Police  
Officer?

A No.

Q Was he on the Suffolk County  
payroll?

A Not that I'm aware.

Q When he allegedly made this  
arrest, was he acting on behalf of the  
Suffolk County Police?

A No.

Q Was he acting on behalf of  
Nassau County Police?

A I don't know the answer to that.

Q When did Officer Lamb or  
Detective Lamb tell you that DiLeonardo  
arrested Moroughan?

A It would have been during the  
phone call that early morning hours, late at  
night, whatever date that was.

Q Did you make any memorandum or  
notation about that particular fact, that  
particular phone call where he allegedly  
said that DiLeonardo arrested him?

A No.

Q Did you ask him any questions to follow up on that?

A Yes.

Q What did you ask Detective Lamb?

A How that process was working in conjunction with who was handling the arrest, who was handling the shooting. There was a time where there was a discussion of what unit in the Suffolk County Police Department was handling what aspect of the case.

Q Did Officer DiLeonardo fill out any of the Suffolk County paperwork required to formalize the arrest?

MR. MITCHELL: Objection to form. You can answer.

A If you mean the felony complaint, I don't believe so.

Q Whatever paperwork was required, this arrest was filled out by Suffolk County Police Officers, right?

MR. MITCHELL: Objection to form. You can answer.

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A        There may have been a supporting  
deposition.

Q        That was provided by Officer  
DiLeonardo?

A        Yes, but I have to look at the  
charges.

Q        There was a statement taken by  
Moroughan himself, correct?

A        Sorry?

Q        There was a statement taken by  
Mr. Moroughan himself, correct?

MR. GRANDINETTE:    Objection to  
form.

MR. MITCHELL:    You mean taken  
of?

A        Yes, there's a statement taken  
of Mr. Moroughan.

Q        That was signed by Mr.  
Moroughan, correct?

A        As I recall, yes.

Q        Initialed in various places by  
him as well, correct?

A        Yes.

Q        Who took that statement from

1  
2 him? Was it Officer DiLeonardo?

3 A No.

4 Q Was it Suffolk County Police  
5 Officers, correct?

6 A Yes.

7 Q Did Mr. Moroughan know he was  
8 under arrest when he gave that statement?

9 A Yes.

10 Q Was he in handcuffs when he gave  
11 that statement?

12 A That I don't know.

13 Q Who told Mr. Moroughan he was  
14 under arrest when he gave that statement?  
15 Do you know?

16 A I don't know which detective.

17 Q When you say that he knew he was  
18 under arrest at that time, what is that  
19 based upon?

20 MR. MITCHELL: Objection to  
21 form. You can answer.

22 A I believe he was Mirandized  
23 before he gave the statement.

24 Q Did Officer DiLeonardo Mirandize  
25 him?

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A Not that I believe.

Q Did Detective Lamb Mirandize him?

A I don't know Sergeant Lamb, Detective Lesser. Team 2 member.

Q Would you believe it was a Suffolk County Police Officer or Detective that Mirandized Mr. DiLeonardo?

A Yes.

Q Certainly Mr. Bienz had nothing to do with the arrest?

A No.

MR. MITCHELL: I didn't hear the question before that. Not the one you just asked.

Q Did Officer Bienz have anything to do with the alleged arrest?

A Yes.

Q He arrested him?

A Yes.

Q Did Officer Bienz arrest Mr. Moroughan?

A Sorry, Bienz. Thinking DiLeonardo. Say that again.

Q Did Officer Bienz arrest  
Mr. DiLeonardo?

A No.

Q Did Officer Bienz shoot  
Mr. Mr. Moroughan?

A No.

Q I will start again. Did Officer  
Bienz arrest Mr. Moroughan?

A No.

Q Did Officer Bienz shoot  
Mr. Moroughan?

A No.

Q Did Officer Bienz assault  
Mr. Moroughan?

A No.

Q Was Officer Bienz run over by  
Mr. Moroughan?

MR. GRANDINETTE: Objection to  
form.

A But for the way you describe it  
run over, yes.

Q Am I correct that Mr. Moroughan  
was ultimately taken into custody and put  
into handcuffs while sitting in an office in

## C E R T I F I C A T E

STATE OF NEW YORK           )  
                                  ) ss.:  
COUNTY OF SUFFOLK         )

I, MARIA PELLICANE, a Notary  
Public within and for the State of New  
York, do hereby certify:

That RAPHAEL PEARL, the witness  
whose deposition is hereinbefore set  
forth, was duly sworn by me and that such  
deposition is a true record of the  
testimony given by such witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I  
am in no way interested in the outcome  
of this matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 31st day of  
December, 2016.

  
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MARIA PELLICANE



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Raphael Pearl

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A C K N O W L E D G M E N T

STATE OF NEW YORK     )  
                                  : ss  
COUNTY OF             )

I, RAPHAEL PEARL, hereby certify  
that I have read the transcript of my  
testimony taken under oath in my deposition  
of December 15, 2016; that the transcript is  
a true, complete and correct record of my  
testimony, and that the answers on the  
record as given by me are true and correct.

-----  
RAPHAEL PEARL

Signed and subscribed to before  
me, this                   day  
of                                 , 2016.

-----  
Notary Public, State of New York

1  
2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----x  
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6 Plaintiff,

7 Docket No.  
8 12-CV-0512

9 -against-

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23 D. DILEONARDO, EDWARD BIENZ and JOHN DOES  
24 11-20,

25 Defendants.

-----x  
100 Veterans Highway  
Hauppauge, New York

February 17, 2017  
10:30 a.m.

(CAPTION CONTINUED ON NEXT PAGE.)

24 Rich Moffett Court Reporting, Inc.  
25 114 Old Country Road, Suite 630  
Mineola, New York 11501  
516-280-4664

1                   A           That would sound consistent.

2                   Q           Whether or not he consented, do  
3                   you know whether or not the hospital ever  
4                   did those tests?

5                   A           Just can't recall.

6                   Q           You looked at the copy of the  
7                   hospital record that was shown to you this  
8                   morning by Mr. Grandinette. Did you see any  
9                   toxicology screening of Mr. Bienz that  
10                  night?

11                  A           No, I did not.

12                  Q           Did you consult with anyone with  
13                  the Nassau County District Attorney's office  
14                  before deciding to dismiss the charges  
15                  against Mr. Moroughan?

16                  A           I did not.

17                  Q           Did you consult with anyone from  
18                  the Nassau County Police Department before  
19                  deciding to dismiss the charges against  
20                  Mr. Moroughan?

21                  A           I did not.

22                  Q           Did you consult with Officer  
23                  DiLeonardo before deciding to dismiss the  
24                  charges against Mr. Moroughan?  
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A No.

Q Do you know if District Attorney Spota consulted with anyone at Nassau County directing that the charges be dismissed?

A I don't know.

Q That was done independent of Nassau County, correct?

MR. MITCHELL: Objection to form. You can answer.

A I don't know. I didn't have any contact with Nassau County.

Q Looking at the felony complaint, this is Bates stamped 181. There's a check indicating that the arrest is based upon a statement given by Officer DiLeonardo, correct?

A Yes, discharged based solely on the information and belief of the statement of Anthony DiLeonardo.

Q Anthony DiLeonardo here is identified as a police officer, correct?

A Correct.

Q That number next to the name, do you know what that number refers to?

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Raphael Pearl

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A C K N O W L E D G M E N T

STATE OF NEW YORK     )  
                                  :ss  
COUNTY OF                 )

I, RAPHAEL PEARL, hereby certify  
that I have read the transcript of my  
testimony taken under oath in my deposition  
of February 17, 2016; that the transcript is  
a true, complete and correct record of my  
testimony, and that the answers on the  
record as given by me are true and correct.

-----  
RAPHAEL PEARL

Signed and subscribed to before  
me, this                   day  
of                                 , 2017.

-----  
Notary Public, State of New York

## C E R T I F I C A T E

STATE OF NEW YORK           )  
                                  ) ss.:  
COUNTY OF SUFFOLK         )

I, MARIA PELLICANE, a Notary  
Public within and for the State of New  
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That RAPHAEL PEARL, the witness  
whose deposition is hereinbefore set  
forth, was duly sworn by me and that such  
deposition is a true record of the  
testimony given by such witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I  
am in no way interested in the outcome  
of this matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 6th day of  
March, 2017.

  
-----

MARIA PELLICANE